
SENATE BILL No. 382

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-7.

Synopsis: Voting rights of a person convicted of a crime. Provides that a person who is convicted of a crime after June 30, 2004, is not eligible to vote or to register to vote until the person is no longer incarcerated, on parole, or under court supervision. Requires the circuit court clerk of the county in which an individual is convicted of a crime to notify the National Voter Registration Act of 1993 (NVRA) official of the conviction and placement of the individual and to coordinate with the election division to maintain the statewide voter registration system. Repeals a requirement that the county sheriff notify the NVRA official of a conviction.

Effective: July 1, 2004.

Hershman, Drozda

January 12, 2004, read first time and referred to Committee on Elections and Civic Affairs.

C
o
p
y



Introduced

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

SENATE BILL No. 382

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-7-13-5, AS AMENDED BY P.L.195-2003,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2004]: Sec. 5. (a) **Except as provided in section 6.1 of this**
4 **chapter**, a person described in section 4 of this chapter who is
5 otherwise qualified to register under this article is eligible to register
6 when the person is no longer:
7 (1) imprisoned; or
8 (2) otherwise subject to lawful detention.
9 (b) Notwithstanding IC 35-47-2, IC 35-47-2.5, or the restoration of
10 the right to vote under this section and except as provided in
11 subsections (c), (d), and (g), a person who has been convicted of a
12 crime of domestic violence (as defined in IC 35-41-1-6.3) may not
13 possess a firearm upon the person's release from imprisonment or
14 lawful detention.
15 (c) Not earlier than five (5) years after the date of conviction, a
16 person who has been convicted of a crime of domestic violence (as
17 defined in IC 35-41-1-6.3) may petition the court for restoration of the

2004

IN 382—LS 6871/DI 102+



C
o
p
y

1 person's right to possess a firearm. In determining whether to restore
 2 the person's right to possess a firearm, the court shall consider the
 3 following factors:

- 4 (1) Whether the person has been subject to:
 5 (A) a protective order;
 6 (B) a no contact order;
 7 (C) a workplace violence restraining order; or
 8 (D) any other court order that prohibits the person from
 9 possessing a firearm.
 10 (2) Whether the person has successfully completed a substance
 11 abuse program, if applicable.
 12 (3) Whether the person has successfully completed a parenting
 13 class, if applicable.
 14 (4) Whether the person still presents a threat to the victim of the
 15 crime.
 16 (5) Whether there is any other reason why the person should not
 17 possess a firearm, including whether the person failed to complete
 18 a specified condition under subsection (d) or whether the person
 19 has committed a subsequent offense.

20 (d) The court may condition the restoration of a person's right to
 21 possess a firearm upon the person's completion of specified conditions.

22 (e) If the court denies a petition for restoration of the right to possess
 23 a firearm, the person may not file a second or subsequent petition until
 24 one (1) year has elapsed.

25 (f) A person has not been convicted of a crime of domestic violence
 26 for purposes of subsection (c) if the conviction has been expunged or
 27 if the person has been pardoned.

28 (g) The right to possess a firearm shall be restored to a person
 29 whose conviction is reversed on appeal or on post-conviction review at
 30 the earlier of the following:

- 31 (1) At the time the prosecuting attorney states on the record that
 32 the charges that gave rise to the conviction will not be refiled.
 33 (2) Ninety (90) days after the final disposition of the appeal or the
 34 post-conviction proceeding.

35 SECTION 2. IC 3-7-13-6 IS AMENDED TO READ AS FOLLOWS
 36 [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) This section applies to a
 37 person **convicted of a crime before July 1, 2004**, who is:

- 38 (1) otherwise qualified to register under this article; and
 39 (2) not imprisoned or subject to lawful detention.
 40 (b) A person described in subsection (a) who is:
 41 (1) on probation;
 42 (2) on parole;

C
o
p
y



1 (3) subject to home detention under IC 35-38-2.5; or
 2 (4) placed in a community corrections program under
 3 IC 35-38-2.6;
 4 is eligible to register and to vote.

5 SECTION 3. IC 3-7-13-6.1 IS ADDED TO THE INDIANA CODE
 6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 7 1, 2004]: **Sec. 6.1. (a) A person who is convicted of a crime after**
 8 **June 30, 2004, who is otherwise qualified to register under this**
 9 **article, and who is:**

10 (1) imprisoned;
 11 (2) otherwise subject to lawful detention;
 12 (3) on probation;
 13 (4) on parole;
 14 (5) subject to home detention under IC 35-38-2.5; or
 15 (6) placed in a community corrections program under
 16 IC 35-38-2.6;
 17 is not eligible to register or to vote.

18 (b) A person who is convicted of a crime after June 30, 2004,
 19 who is otherwise qualified to register under this article, and who is
 20 no longer:

21 (1) imprisoned;
 22 (2) otherwise subject to lawful detention;
 23 (3) on probation;
 24 (4) on parole;
 25 (5) subject to home detention under IC 35-38-2.5; or
 26 (6) placed in a community corrections program under
 27 IC 35-38-2.6;
 28 is eligible to register and to vote.

29 SECTION 4. IC 3-7-26.3-12, AS ADDED BY P.L.209-2003,
 30 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2004]: Sec. 12. As required under 42 U.S.C. 15483, the
 32 election division shall coordinate the computerized list with the
 33 department of correction **and circuit court clerks'** records concerning
 34 individuals disfranchised under IC 3-7-46.

35 SECTION 5. IC 3-7-46-2 IS AMENDED TO READ AS FOLLOWS
 36 [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) A person imprisoned
 37 following conviction of a crime is disfranchised during the person's
 38 imprisonment.

39 (b) A person who is convicted of a crime after June 30, 2004, is
 40 disfranchised during the period that the person is:

41 (1) imprisoned;
 42 (2) otherwise subject to lawful detention;

C
o
p
y



- (3) on probation;**
- (4) on parole;**
- (5) subject to home detention under IC 35-38-2.5; or**
- (6) placed in a community corrections program under IC 35-38-2.6.**

SECTION 6. IC 3-7-46-4, AS AMENDED BY P.L.209-2003, SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) Not later than the second Tuesday of each month, the department of correction shall provide the NVRA official with a list identifying each person who:

- (1) is a resident of Indiana;
- (2) has been convicted of a crime; and
- (3) has been placed in a department of correction facility during the previous month.

(b) Not later than the second Tuesday of each month, the circuit court clerk of a county in which a person is convicted of a crime shall provide the NVRA official with a list identifying each person who:

- (1) is a resident of Indiana;
- (2) has been convicted of a crime; and
- (3) has been placed:
 - (A) in a department of correction facility;
 - (B) in other lawful detention;
 - (C) on probation;
 - (D) on parole;
 - (E) on home detention under IC 35-38-2.5; or
 - (F) in a community corrections program under IC 35-38-2.6;

during the previous month.

(c) The department of correction and the circuit court clerks shall provide the information required by this section electronically in a format prescribed by the commission.

~~(c)~~ (d) This section expires January 1, 2006.

SECTION 7. IC 3-7-46-4.1, AS ADDED BY P.L.209-2003, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4.1. (a) This section applies after December 31, 2005.

(b) As required under 42 U.S.C. 15483, the election division shall coordinate the computerized list generated by the statewide voter registration system under IC 3-7-26.3 with the department of correction and the circuit court clerks to permit a county voter registration office to cancel the registration records of disfranchised individuals on an

C
O
P
Y



expedited basis.

(c) The department of correction shall provide the NVRA official with a list identifying each person who:

- (1) is a resident of Indiana;
- (2) has been convicted of a crime; and
- (3) has been placed in a department of correction facility during the previous month.

(d) **The circuit court clerk of a county in which a person is convicted of a crime shall provide the NVRA official with a list identifying each person who:**

- (1) is a resident of Indiana;**
- (2) has been convicted of a crime; and**
- (3) has been placed:**
 - (A) in a department of correction facility;**
 - (B) in other lawful detention;**
 - (C) on probation;**
 - (D) on parole;**
 - (E) on home detention under IC 35-38-2.5; or**
 - (F) in a community corrections program under IC 35-38-2.6;**

during the previous month.

(e) The department of correction **and the circuit court clerks** shall provide the information required by this section electronically in a format prescribed by the election division.

SECTION 8. IC 3-7-46-5, AS AMENDED BY P.L.209-2003, SECTION 88, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. The NVRA official shall notify the county voter registration office of each county where a person on the report **described in section 4(a) or 4(b) of this chapter** resides for processing under section 8 of this chapter.

SECTION 9. IC 3-7-46-7.5, AS ADDED BY P.L.209-2003, SECTION 91, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7.5. If the information provided under section 5 ~~or~~ 6 of this chapter indicates that the person is disfranchised under section 2 of this chapter, the county voter registration office shall:

- (1) remove the name of the person from the voter registration records; and
- (2) after January 1, 2006, enter the date and other information regarding the cancellation into the computerized list under IC 3-7-26.3;

on an expedited basis, as required under 42 U.S.C. 15483.

SECTION 10. THE FOLLOWING ARE REPEALED [EFFECTIVE

C
o
p
y



1 JULY 1, 2004]: IC 3-7-46-6; IC 3-7-46-7.

**c
o
p
y**

